

Decision 05-04-047 April 21, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Stephen Fernandez doing business
as Ramona Water Co. to sell and Louis
DeMartino to buy the water system in Riverside
County, California.

Application 04-03-012
(Filed March 11, 2004)

O P I N I O N

1. Summary

Pursuant to Pub. Util. Code §§ 851-854, this decision grants authority to Steven Fernandez to transfer ownership of Ramona Water Company (Ramona) to the Great Western Water District (Great Western), a newly formed corporation organized to own and manage community water systems. Ramona is a small water corporation serving 125 connections in a service territory two miles east of Anza in Riverside County. This proceeding is closed.

2. Procedural Background

This application was filed on March 11, 2004, and reviewed by the Commission's Water Division. The matter was reassigned on February 9, 2005, to the Administrative Law Judge (ALJ) Division. By ALJ Ruling dated February 18, 2005, applicants were directed to supply additional information. Applicants responded on March 11, 2005, including a copy of the purchase agreement and the notice of proposed sale that was sent to customers. Upon further review, and noting the absence of any objection to the sale, the Water Division concluded that an evidentiary hearing in the matter was not required.

3. Background

Ramona is a California corporation deemed to be a public utility and granted a certificate of public convenience and necessity by Decision (D.) 81097 on March 6, 1973. The water system emerged in the 1960s as developers drilled wells and installed distribution mains in order to sell lots in Ramona's service area. According to the application, the system today includes six wells and approximately 4,000 feet of water mains. There are three pressure tanks and two storage tanks. According to the application, Steven Fernandez has been the owner and operator of the system since 1998. The Commission last dealt with Ramona in September 2001, when it approved Resolution No. W-4293 granting an interim increase in rates to approximately \$62,000 annually.

Great Western was formed in 2004 with the stated purpose of acquiring and managing community water systems. The president of the company is Louis F. DeMartino, a licensed general engineering contractor with experience in water system support. Directors of Great Western include Rockwell W. Swanson, whose Rockwell Electric Company served public works entities and wastewater treatment facilities, and Donald Bunts, a registered civil engineer with 23 years of experience in the water and wastewater business. Great Western does not own any other water companies, but it is seeking to become trustee of Spring Crest Water and Power Company.

Great Western states that it has applied for a state revolving loan to rehabilitate the Ramona system and bring it into compliance with public health codes. Planned improvements include wellhead rehabilitation, upgrading of storage, distribution pipelines and customer meters, and more reliable system pressure. Great Western states that no increase in rates is planned at this time,

but it may apply to the Commission for new rates when system improvements are completed.

Ramona's owner seeks authority to sell the water system and transfer public utility water service responsibilities to Great Western, stating that the new owner has the experience and resources to more efficiently serve ratepayers. A copy of the proposed bill of sale has been made part of the application. The negotiated sale price of the system is \$45,000. Ratepayers were notified of the sale and were told to send any protest to the Commission. No protest has been received.

4. Discussion

Proposed water utility dispositions are reviewed on the basis of Pub. Util. Code § 851-854 and Pub. Util. Code §§ 2718-2720 (the Public Water System Investment and Consolidation Act of 1997). Sections 851-854 prohibit the sale or transfer of control of a public utility without the advance approval of this Commission. Sections 2718-2720 encourage the acquisition of small water companies by larger, more financially secure entities.

Applicants here have shown that Ramona is in need of substantial capital improvements, and that Great Western has the ability to seek financial resources to accomplish this work. No increase in rates is contemplated as a result of the acquisition, and terms and conditions of service will remain unchanged.

The proposed agreement requires the approval of the Commission. Approval by the California Department of Health Services (DHS) also is required. Great Western proposes to adopt the filed tariffs of Ramona and is bound by any outstanding Commission decisions or directives involving the water system being transferred.

We conclude that the proposed sale and transfer of control of Ramona is reasonable, is in the public interest, and will provide tangible benefits to ratepayers. The parties intended the sale to be consummated as of January 24, 2004, but that could not be accomplished since prior approval of the Commission had not been obtained by that time. We will approve the application and authorize the transfer of ownership as of the date of this decision.

5. User Fees, DHS Approval

Water and sewer utilities subject to Commission jurisdiction were required by the Legislature beginning January 1, 1983, to impose user fees on customers' bills. (*See* Pub. Util. Code §§ 401, *et. seq.*) Ramona will continue to collect and remit these fees to the Commission.

The sale will relieve Ramona's former owner of the duty to provide public utility water service to the service area. Ramona is to record the acquisition of the system at original cost in accordance with the Uniform System of Accounts for Water Companies.

Pursuant to the provisions of California Health and Safety Code (CH&S) § 116525(a), any person or entity operating a public water system must have a permit to operate that system from the DHS. A change in ownership of a public health system requires the prospective new owner to apply to and satisfy the DHS requirement that the new owner "possesses adequate financial, managerial, and technical capability to assure the delivery of pure, wholesome, and potable drinking water" (CH&S Code § 116540). Accordingly, apart from the authorization from the Commission for the acquisition of Ramona, the new owner also must apply to DHS for re-issuance of the existing permit of Ramona.

This application involves only a proposed change in control and operation of existing water facilities. No new construction or changes in the source of water supply are being proposed. Accordingly, there is no possibility that the transaction may have any significant effect on the environment.

The authority granted by our order today is not a finding of the value of the rights and property to be transferred.

6. Categorization and Need for Hearing

In Resolution ALJ 176-3130 dated March 11, 2004, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. We reaffirm these preliminary determinations.

7. Comments on Draft Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

8. Assignment of Proceeding

Commissioner Geoffrey F. Brown is the Assigned Commissioner and Glen Walker is the assigned ALJ for this proceeding.

Findings of Fact

1. Ramona serves 125 connections in a service territory two miles east of Anza in Riverside County.
2. Ramona finds it difficult financially to maintain the system and provide service to its customers.
3. Great Western was formed in 2004 with the stated purpose of acquiring and managing community water systems.
4. Great Western seeks to acquire Ramona for a purchase price of \$45,000.

5. Great Western has applied for a state revolving loan to rehabilitate the Ramona system.

6. Since only a transfer of ownership is proposed, it can be seen with certainty that the sale and transfer of this system will have no significant effect on the environment.

7. As a public utility, Ramona and its new owner are responsible to the Commission for remittance of the Public Utilities Commission User Fees.

8. A change in ownership of a public health system requires the new owner to satisfy DHS requirements to operate a public water system.

9. After consummation of the sale and transfer, the current owner of Ramona will no longer provide public utility water service in the service territory. The new owner will assume these duties and obligations.

Conclusions of Law

1. Great Western has the legal capacity and experience to acquire and operate the water system of Ramona.

2. The acquisition of ownership and control of Ramona by Great Western is in the public interest and will provide tangible benefits to ratepayers.

3. Upon completion of the sale and transfer, the current owner of Ramona should be relieved of public utility water duties and obligations.

4. Ramona and Great Western should apply to DHS for re-issuance of the existing permit of Ramona.

5. This order should be made effective immediately so as to permit prompt consummation of the sale and transfer.

O R D E R

IT IS ORDERED that:

1. On or after the effective date of this order, Steven Fernandez is authorized to sell Ramona Water Company (Ramona) to Great Western Water District (Buyer) upon terms and conditions substantially consistent with those set forth in Application (A.) 04-01-024.

2. The Buyer shall provide the Director of the Water Division a copy of the State of California's Secretary of State Certificate of Status of Domestic Corporation and a copy of its Articles of Incorporation.

3. The Buyer shall provide the Director of the Water Division a copy of the permit to operate the water system granted to it by the Department of Health Services.

4. Sixty days after the transfer of the water system to the Buyer, the Buyer shall provide the Director of the Water Division with the 2004 Annual Report to the Commission covering operations from January 1, 2004 to December 31, 2004.

5. The Buyer shall, upon Commission staff request, make all books and records available for review and inspection. In the event such books and records are required for inspection by the Commission or its staff, the Buyer shall either produce such records at the Commission's offices or at another location in California, or reimburse the Commission for the reasonable costs incurred in having the Commission staff travel out of State to the offices where the books and records are maintained.

6. The Corporate Identification Number assigned to the Buyer remains unchanged.

7. The Buyer shall record the acquisition of Ramona at original cost in accordance with the Uniform System of Accounts for Water Companies.

8. The authority granted in Ordering Paragraph 1 shall expire if not exercised within 12 months after the effective date of this order.

9. Upon compliance with this order, the current owner of Ramona shall be relieved of the public utility obligation, and the Certificate of Public Convenience and Necessity will be transferred to Buyer.

10. The application is granted as set forth above.

11. Application 04-03-012 is closed.

This order is effective today.

Dated April 21, 2005, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
DIAN M. GRUENEICH
Commissioners